

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
FIRST MODE HOLDINGS, INC., <i>et al.</i> , ¹)	Case No. 24-12794 (KBO)
Debtors.)	(Jointly Administered)
)	Related to Docket Nos. 83, 116

**RESERVATION OF RIGHTS REGARDING MOTION OF DEBTORS FOR
ENTRY OF AN ORDER (I) APPROVING THE DISCLOSURE STATEMENT;
(II) ESTABLISHING THE VOTING RECORD DATE, VOTING DEADLINE, AND
OTHER DATES; (III) APPROVING PROCEDURES FOR SOLICITING, RECEIVING,
AND TABULATING VOTES ON THE PLAN AND FOR FILING OBJECTIONS TO
THE PLAN; (IV) APPROVING THE MANNER AND FORMS OF NOTICE AND
OTHER RELATED DOCUMENTS; AND (V) GRANTING RELATED RELIEF**

The Official Committee of Unsecured Creditors (the “Committee”) appointed in the above-captioned chapter 11 cases (the “Chapter 11 Cases”) of First Mode Holdings, Inc. and its affiliated debtor and debtor in possession (together, the “Debtors”), by and through its undersigned counsel, hereby files this reservation of rights (this “Reservation”) with respect to the *Motion of Debtors for Entry of an Order (I) Approving the Disclosure Statement; (II) Establishing the Voting Record Date, Voting Deadline, and Other Dates; (III) Approving Procedures for Soliciting, Receiving, and Tabulating Votes on the Plan and for Filing Objections to the Plan; (IV) Approving the Manner and Forms of Notice and Other Related Documents; and (V) Granting Related Relief* [Docket No. 116] (the “Solicitation Procedures Motion”), which seeks approval of, among other things, (i) the *Disclosure Statement for the First Amended Joint Chapter 11 Plan of First Mode Holdings, Inc. and Its Debtor Affiliate Under Chapter 11 of the Bankruptcy Code* [Docket No. 83] (the “Disclosure Statement”) as containing adequate

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: First Mode Holdings, Inc. (7177), and Synchronous LLC (1829). The Debtors’ mailing address is 3417 1st Ave. S, Seattle, WA, 98134.

information concerning the *First Amended Joint Chapter 11 Plan of First Mode Holdings, Inc. and Its Debtor Affiliate Under Chapter 11 of the Bankruptcy Code* attached thereto as Exhibit A (the “Plan”) and (ii) related solicitation procedures. In support of this Reservation, the Committee respectfully states as follows:

RESERVATION OF RIGHTS

1. This case presents unique issues given that the Plan proposes to pay general unsecured creditors in full, so long as those creditors provide releases to the Plan funder. Because this is a “full pay” plan, it is imperative that the solicitation process be designed to minimize the chances that an unsecured creditor is inadvertently disenfranchised because the Debtors have a bad mailing address, the creditor makes a technical error on its ballot (*e.g.*, failing to sign the ballot), or the creditor currently is not entitled to vote (*e.g.*, contract counterparties with contracts that have not yet been rejected).

2. It is the Committee’s intention, wherever possible, to work with the Debtors and other case constituents in good faith to resolve any issues that may arise among the parties. To that end, the Committee has been engaged in discussions with the Debtors, their debtor-in-possession lenders, and the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) regarding the Committee’s concerns with respect to the Solicitation Procedures Motion and the Disclosure Statement, and the Committee has provided the Debtors with detailed comments to the proposed order approving the Solicitation Procedures Motion (the “Solicitation

Procedures Order”).² Attached hereto as **Exhibit A** is a redline reflecting the Committee’s requested revisions to the filed version of the Solicitation Procedures Order.³

3. Although the Debtors have agreed to accept various of the revisions to the documents proposed by the Committee, as of the filing of this Reservation there still are unresolved issues regarding the final forms of these documents. The Committee respectfully requests that, unless the Committee’s proposed revisions to the Disclosure Statement and Solicitation Procedures Order are implemented, the Court deny the Motion.

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² The Committee also has provided comments to the Debtors with respect to the Disclosure Statement, although the bulk of those comments simply implement requested changes to the Solicitation Procedures Order.

³ The redline also reflects certain other revisions implemented by the Debtors in response to comments from other parties in interest.

4. The Committee also has concerns regarding the Plan, but is hopeful that those concerns will be resolved prior to the hearing regarding confirmation of the Plan. If not, the Committee will raise those issues with the Court at the appropriate time.

Dated: Wilmington, Delaware
February 3, 2025

MCDERMOTT WILL & EMERY LLP

/s/ David R. Hurst

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